

TLapa de Comonfort, Guerrero, Mexico, October 2012

**Committee against Torture**  
**United Nations**  
**Geneva, 2012**  
**49th period of sessions<sup>1</sup>**

The Human Rights Centre “Tlachinollan” is a non-governmental organisation dedicated for 18 years to the defence and promotion of human rights in the state of Guerrero, in Mexico’s southwest, with Consultative Status before the UN Economic and Social Council.

This report is presented within the framework of review being carried out by the Committee against Torture (CAT) regarding the “Fifth” and “Sixth” reports of the Mexican State, in accordance with Article 19 of the Convention against Torture and other Cruel, Inhumane or Degrading Punishment or Treatment, and includes information about the practice of torture in the state of Guerrero. Likewise, it includes two addendums. The first addendum contains additional information about the situation of torture in Mexico obtained through requests presented by Tlachinollan through the Federal Institute for Access to Information (IFAI) to the federal Attorney-General’s office (PGR) and the National Defence Ministry (SEDENA); the second addendum is the proposed model reform of the Penal Code of Justice in the State of Guerrero, which has been drafted and is now being reviewed to codify the crime of torture in the state.

The present report provides concrete and illustrative elements **about the status of the use of torture in the state of Guerrero, one of the federative entities with the worse indices in regards to human rights**, which we consider will be of great interest for the CAT, considering that the information alleged by the State focuses predominantly on the federal level. For this reason, the order of this information is based on the questions provided previous to the presentation of Mexico’s “Fifth” and “Sixth” periodical reports<sup>2</sup> and includes previous recommendations of the Committee, preceded by a brief section on context.

Likewise, considering the interest that the Committee has demonstrated in the past in emblematic cases of the use of torture in Mexico<sup>3</sup>, the present report provides information about case known as the **“Ayotzinapa” case, regarding the torture of young students of the Rural Normal College School “Raúl Isidro Burgos,” in Ayotzinapa, Guerrero**, after state and federal authorities carried out a failed operation to remove a non-violent protest this past 12 December 2011.

## **1. CONTEXT IN THE STATE OF GUERRERO**

The state of Guerrero is located in the south of Mexico. Together with the states of Oaxaca and Chiapas it is in the last places in practically all indicators of human development. In the region of la Montaña (“the mountain region”), where the highest percentage of indigenous persons are located, are the most impoverished municipalities in the country.

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\* NOTE: We authorize the publication of the present report, together with Annex 1 on the Committee’s website; it was finalized on October 1, 2012. We request that Annex 2 NOT be published.

\*\* Sections in this report have been used in the reports presented by the National Network of Civic Organizations, “*Todos los Derechos para Todos y Todos*”.

<sup>1</sup> Mexico is a party to the Convention against Torture and Other Cruel, Inhumane and Degrading Treatment and Punishments (hereafter the “Convention”) since 1986. In 2002 Mexico recognized the competence of the Committee against Torture to receive individual communications and in 2005 ratified the Optional Protocol for the Convention, which established a mechanism for visits to detention centres: the Subcommittee for the Prevention of Torture. In accordance with paragraph 1 of Article 19 of the Convention, the Mexican government has presented four periodical reports to the CAT in 1988, 1992, 1996, and 2004, respectively. In addition, Mexico responded to the questions discussed upon reviewing its Fourth periodical report (CAT/C/MEX/Q/4/Add.1) in September of 2006. The Committee examined the Fourth periodical report in 2006. The Mexican government is presenting its Fifth and Sixth periodical reports.

<sup>2</sup> Committee against Torture. The combined Fifth and Sixth periodical reports which party States must present in 2010, presented in response to the listing of questions (CAT/C/MEX/Q/5-6) conveyed to the State party according to the optional procedure on presenting reports (A/63/44, paragraphs 23 and 24). Mexico, September 20, 2011. UN Doc. CAT/C/MEX/5-6.

<sup>3</sup> Committee against Torture. Review of the Reports presented by the state-party according to Article 19 of the Convention. Concluding Observations and recommendations of the CAT. Mexico, February 6, 2007. UN.Doc.CAT/C/MEX/CO/4, paragraph 18.

Guerrero has a long history of gross violations of human rights marked by impunity. A majority of the enforced disappearances carried out in the decade of the 1970's occurred in this state<sup>4</sup>. In more recent years, the patterns of gross violations of human rights have continued, as demonstrated by the cases of Inés Fernández Ortega y Valentina Rosendo Cantú, indigenous women of the Me'phaa people who were raped and tortured by the soldiers from Mexico's armed forces in 2002, and whose search for justice reached the Inter-American Court of Human Rights, Tribunal which pronounced its sentences in these cases on 1<sup>st</sup> October 2010.

Currently, Guerrero has – according to the National Institute on Geography and Statistics (INEGI) – the lowest percentage of persons denouncing abuses in the entire country; of the total crimes declared by the population (672,154) only 6.4% denounced these abuses with authorities (42,960) in 2010. Likewise, of the crimes declared, only in 58.1% of cases was an investigation initiated, that is, in only 24,984 cases. In this manner, if one were to extrapolate the data, we would find that only 3.7% of the crimes that were declared by the population resulted in a preliminary inquiry by the Public Prosecutor's Office.

It is important to highlight that both violence by non-state actors and gross human rights violations have increased in the context of the security policy initiated by the Federal Government to respond to organised crime. As a result, the situation in Guerrero has required special attention by various protection mechanisms of the Inter-American and universal systems.

## **2. THE USE OF TORTURE IN THE STATE OF GUERRERO**

Following, we present basic information about the most pressing matters regarding the use of torture in Guerrero, from Tlachinollan's perspective: the lack of a codification of the crime of torture in the state Penal Code; the deficiencies in the investigation of this crime, including issues related to application of the Istanbul Protocol; the lagging in the implementation of the reform of the penal justice system; and the subsistence of military jurisdiction. In addition, we present basic information about the "Ayotzinapa" case, which is emblematic of the consequences at the state level of these deficiencies.

### **2.1 LACK OF CODIFICATION OF THE CRIME OF TORTURE<sup>5</sup> IN THE STATE OF GUERRERO**

In the most recent Conclusions and Recommendations, derived from Mexico's Fourth review, the Committee signalled that an issue of concern was that, at the state level, the crime of torture be codified differently than in federal legislation, and more specifically, that this crime is not contemplated in the Penal Code of the state of Guerrero.<sup>6</sup> On this point and despite the explicit request by the Committee, the Mexican State makes no reference to this issue.

The codification of torture in Guerrero is included in the law that created the Commission of Defence of Human Rights in the State of Guerrero (CODDEHUM) and which establishes the Procedure Related to the Involuntary Disappearance of Persons. In this regard, the fact that the crime of torture is legislated in a secondary norm, and connected to the creation of an autonomous public organism, and not in the state Penal Code, contributes to acts of torture not being investigated and sanctioned adequately.

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<sup>4</sup> See for example: Human Rights Council. Report of the Working Group on Enforced or Involuntary Disappearances. Addendum Mexico. 20 December 2011. A/HRC/19/58/Add.2 pa. 54.

<sup>5</sup> Please provide detailed information about the efforts and actions undertaken thus far to align federal and state laws so that the crime of torture is defined throughout Mexico in accordance with international and regional standards, including those set forth in the Convention against Torture and the Inter-American Convention to Prevent and Punish Torture. List of issues prior to the submission of the fifth and sixth periodic reports of MEXICO UN. Doc. CAT/C/MEX/Q/5-6. pa. 1. "The Committee notes that the Federal Act to Prevent and Punish Torture defines torture in accordance with the provisions of the Convention. However, the Committee is concerned that in most cases the definition of the crime of torture differs from one state to another, and that the crime is not mentioned in the Penal Code of the State of Guerrero. UN. Doc. CAT/C/MEX/CO/4. pa.11 (our emphasis); See too. Human Rights Council. Working Group for the Universal Periodic Review. Preliminary Report of the Working Group for the Universal Periodic Review. México. 17 February 2009. UN Doc. A/HRC/WG.6/4/L.13, pa. 93, and Recommendation 6 of the Committee against Torture. Consideration of reports submitted by States parties under article 19 of the convention Replies of the Government of Mexico\* to the Conclusions and Recommendations of the Committee against Torture. 26 September 2008. UN Doc. CAT/C/MEX/CO/4/Add.1 pa. 1-3.

<sup>6</sup> UN. Doc. CAT/C/MEX/CO/4 pa. 11.

The agents of the Public Prosecutors in civil jurisdiction that initiate preliminary investigations for acts that might constitute torture, upon not finding torture in the state Penal Code, in practice deny that this crime is codified in the state. As a result, even today, complaints are filed under other criminal actions including abuse of authority and damages. As for cruel treatments, these are not even mentioned in the law.

Additionally, the crime of torture established in Article 53 of the Law that establishes CODDEHUM does not meet the international standards contained in international treaties of which Mexico is a State party.<sup>7</sup> Specifically, the definition of torture in Guerrero defines a series of presumptions related to the criminal field and the purpose of the active subject's conduct for the act to be considered torture. The current definition maintains the lack of harmonization observed by the Committee and which is in violation of Articles 1 and 4 of the Convention. In this situation, Tlachinollan has drafted a model proposal for a reform to the Guerrero state Justice Penal Code, which we have included in this report for your information.

However, the lack of investigation and sanction of torture in Guerrero does not derive exclusively from an inadequate codification of the crime, but also from the absence of other normative modifications that would generate a more effective legal framework to eradicate this practice, in accordance with Article 6 of the Inter-American Convention to Prevent and Sanction Torture, under which State-parties will take effective measures within its purview to prevent and sanction torture, ensuring that all acts of torture and attempts to carry out those acts constitute crimes according to its criminal law, establishing severe sanctions for punishment that address the severity of the crime.

## **2.2 INVESTIGATION OF TORTURE IN THE STATE OF GUERRERO**

The investigation of torture in the state of Guerrero is practically non-existent; combined with the absence of an adequate legal framework, we must add the lack of minimal forensic capacities of public prosecutors, including investigators and police.

In effect, Guerrero has not adopted the Istanbul Protocol through a legislative reform, nor even through an Agreement from the state Attorney General. Nor have Public Prosecutors' staff or experts been trained with the content of said Protocol, and as a result the impartiality of investigations are often compromised. In fact, in its recent Report, "Neither Rights, Nor Security" Human Rights Watch describes: "In Guerrero, the Public Prosecutors Office has never carried out investigations using the guidelines established in the Protocol."<sup>8</sup> As a result, upon a complaint for torture, the investigation follows the ordinary course of a common investigation to any crime and frequently ends in impunity.

This has consequences on impunity, as for example, as Human Rights Watch also documented, there have been no investigations for torture in recent years in Guerrero, while the Guerrero state Ombudsman received 52 complaints for torture, 41 for cruel, inhumane and degrading treatment, and 275 for injuries.<sup>9</sup> Thus, to date, there have been no preliminary inquiry for the crime of torture in the state of Guerrero has been presented to a judicial authority, nor has there been one single conviction for the crime of torture in the entity, despite the fact that civic organizations, such as Tlachinollan through the Civilian Monitor of Security Forces of the Montaña region,<sup>10</sup> has documented over sixty cases of torture and cruel treatment in the last three years in the Montaña region of Guerrero,<sup>11</sup> principally of indigenous persons. And in most

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<sup>7</sup> Art. 53 of the Law which creates the Commission of Defence of Human Rights and establishes the Procedures in regard involuntary Disappearances establishes: Torture is committed by any public servant of the state, who inflicts, or through a third person, or in the commission of his functions, inflicts intentionally in a person sufferings or damages, or physically or mentally coerce this person gravely, aiming to obtain from this person or a third party, information or a confession, induct him to a determined behaviour or punishing him for an act he or she committed or suspects to have committed it or attempts to be imputed to this person. It is not considered torture, the penalties or sufferings consequences of legitimate sanctions, or which have been inherent or incidental from this. (Our translation)

<sup>8</sup> Human Rights Watch, "Neither Rights, Nor Security", 9 November 2011. p. 58. Available at: <http://www.hrw.org/reports/2011/11/09/neither-rights-nor-security-0>

<sup>9</sup> Ibid. p. 60.

<sup>10</sup> MOCIPOL, is a specialised office which monitors police and armed forces abuses in the region, created by Tlachinollan with the support of two other organisations based in Mexico City, INSYDE and FUNDAR.

<sup>11</sup> Report "Desde la Mirada Ciudadana" (From a Citizenship approach), December de 2011. Available at: <http://www.tlachinollan.org/Informes-Especiales/desde-la-mirada-ciudadana.html>

of these cases, it is precisely the officers of the Ministerial Investigative Police in charge of investigating crimes, who are the authorities responsible for these abuses.

While the Committee congratulated Mexico in its most recent Conclusions and Recommendations in February of 2007 for the implementation of the Istanbul Protocol at the federal level as well as in various states in the Republic and for the creation of collegiate bodies to oversee and make transparent the application of the specialised medical-psychological examination for possible cases of torture, the truth is that this has not occurred in Guerrero. As a result, it is necessary to request, once more, specific information about the advances of this process in entities such as Guerrero.<sup>12</sup>

Finally, it is fundamental to highlight that in states such as Guerrero, where authorities in charge of investigations of crimes are themselves involved in illicit activities, the lack of guarantees of security for victims of acts of torture deters the filing of complaints.

### **2.3 THE REFORM OF THE CRIMINAL JUSTICE SYSTEM IN THE STATE OF GUERRERO**<sup>13</sup>

The Constitutional reform to the criminal justice system carried out by the Mexican State on June 18 2008<sup>14</sup> must be implemented at both the federal and state levels by 2016, in accordance to its decree.<sup>15</sup> In Guerrero, the reform of the criminal justice system, through which the courts would transition to an oral, accusatorial system, is lagging far behind. Moreover, a recent thematic report by the Due Process Law Foundation (DPLF) states that in Guerrero: "There is a severe absence of official information about the processes of reform, combined with the lack of outreach and transparency toward the civilian population, which does not allow for human rights organisations to vocalise their crucial role in the defence of the rights of indigenous peoples."<sup>16</sup>

In addition, the reform to the criminal justice system has been centred until now on procedural aspects, leaving aside a review of the catalogue of crimes currently existing in the state, which would permit, for example, advancing on the codification of the crime of torture. Likewise, the process of reform has not been characterised, as stated by the DPLF, by incorporating the specific needs of indigenous persons before the justice system. Thus, it would be erroneous to consider that at the present time this is a measure that advances the eradication of torture and it would be necessary to require the State to provide information on the subject.

### **2.4 Reform of Military Jurisdiction**<sup>17</sup>

Despite the diverse recommendations pronounced by various mechanisms of the United Nations, among which this Honourable Committee against Torture stands out,<sup>18</sup> so that investigations and prosecutions of

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<sup>12</sup> Please provide detailed, up-to-date information on the efforts made and steps taken to implement the Istanbul Protocol in the various states. Include current information on the number of cases in which the Protocol has been applied, the number of preliminary investigations into allegations of torture and/or ill-treatment that have been undertaken and presented to the courts, and the number of sentences handed down in such cases. Please include information on efforts to standardize the application of the Protocol throughout the country. Please supply a detailed account of how the full procedural validity of medical/psychological certificates is ensured when they are submitted in connection with criminal proceedings in accordance with article 225 of the Federal Code of Criminal Procedure. UN. Doc. CAT/C/MEX/Q/5-6 pa. 12-13.

<sup>13</sup> Kindly provide up-to-date, detailed information on the reform of the criminal justice system. Please include information on the progress of legislative procedures in those states that have begun to introduce an oral accusatory system and in those that are still discussing the implementation of oral proceedings. Also furnish up-to-date information on the public stance taken by Supreme Court Justices towards the transition to an oral, accusatory model. Please report on what efforts or measures are being taken to expedite the reform of criminal procedural law. UN Doc. CAT/C/MEX/W/5-6, pa. 7 CAT/C/MEX/CO/4/Add.1, pa 12-14; CAT/C/MEX/CO/4/Add. 1, pa. 4-11.

<sup>14</sup> Decree through which it has been reformed diverse dispositions in the Mexican Constitution, published at the Federal Official Journal on 18 June 2008. Available at: [http://dof.gob.mx/nota\\_detalle.php?codigo=5046978&fecha=18/06/2008](http://dof.gob.mx/nota_detalle.php?codigo=5046978&fecha=18/06/2008)

<sup>15</sup> Ibid. See Transitory Article 2.

<sup>16</sup> Due Process and Law Foundation. "La protección de los derechos de los Pueblos Indígenas a través de un nuevo sistema de justicia penal Estados de Oaxaca, Chiapas, Guerrero", 2012, p. 56. Available at: [www.dplf.org/uploads/1337272027.pdf](http://www.dplf.org/uploads/1337272027.pdf)

<sup>17</sup> Please furnish information about proposed amendments to the Code of Military Justice<sup>17</sup> dealing with the crime of torture and other crimes, along with their penalties, as defined under the Rome Statute of the International Criminal Court. Please furnish information about the efforts made to comply with the Committee's earlier recommendations concerning the trial of cases involving human rights violations, especially torture and cruel, inhuman or degrading treatment, committed by military personnel against civilians.<sup>17</sup> Kindly include information on the progress made in defining torture inflicted on military personnel as an offence under military law. UN. Doc. CAT/C/MEX/Q/6. pa. 3 and 6.

<sup>18</sup> UN. Doc. CAT/C/MEX/CO/4 pa. 14.

crimes committed by members of the military against civilians that constitute human rights violations, and in particular torture and other cruel, inhumane, and degrading treatment, be carried out in civilian jurisdiction, regardless of whether these occurred in acts of service, to date the necessary legislative reforms to ensure this have not been carried out.

In this context, the abuses committed by members of the military, including the practice of torture continues to increase. In regards to the state of Guerrero, the National Commission on Human Rights states they have received 415 complaints. Out of these, only 5 have concluded in recommendations; these include recommendations 19/2010, for arbitrary detention and torture; 20/2010, for cruel treatment against a minor; 42/2010, for torture; 8/2011, for murder; and 38/2011 for murder and cruel treatment against a minor.

Nonetheless, the Presidency and Congress have disregarded the needed reform to the Code of Military Justice. Notably, in the most recent effort to reform this norm in the Mexican Senate, the coordinators of the legislative factions from various parties acceded to the pressure of high-ranking Military elements and stop their efforts to modify the Code of Military Justice to limit military jurisdiction, as was conveyed in various media.<sup>19</sup>

In the face of the failure of this legislative reform, the possibility of limiting the reach of military jurisdiction in a judicial forum became the only alternative for victims. In this sense, it is important to note that on 7 May 2012, the National Supreme Court of Justice (SCJN) issued the General Agreement 06/2012 through which it identified at least 28 cases related on this matter.

The importance of these cases, which included the *Amparo* on Appeal 133/2012 (filed by the family of Bonfilio Rubio Villegas, a young indigenous nuaa man extrajudicial executed by elements of the Mexican Army in June of 2009 at a military checkpoint) is in providing a historic opportunity to establish obligatory jurisprudence on the limits of military jurisdiction, in light of Mexico's international human rights obligations. For this to occur, five cases that challenge the extension of military jurisdiction over crimes that constitute human rights violations must be resolved in the same manner, through decisions approved with a vote of at least eight ministers of the Plenary of the maximum Tribunal.

It is important to note that, even if there have not been the necessary decisions that by law would establish binding jurisprudence by the SCJN, in the discussions within the SCJN's plenary, important principles have been established in regards to military jurisdiction. These include the historic decision reached on 21 August 2012, when the plenary of the SCJN declared Article 57, section II, subsection (a.) of the Code of Military Justice unconstitutional, in regard to Article 13 of the Mexican Constitution, and 2 and 8.1 of the American Convention on Human Rights, by an eight vote majority in the *amparo* 133/2012, of which the family of Bonfilio Rubio Villegas were party.

Thus, it is noteworthy that the State is in no condition to convey objectively that the Code of Military Justice has been reformed to guarantee that no case of torture or cruel, inhumane, and unusual treatment is investigated and prosecuted by the Military, which evidences Mexico's non-compliance with its international obligations under various international human rights treaties and derived from four sentences pronounced by the Inter-American Court of Human Rights.

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<sup>19</sup> For example, Senator Alejandro González Alcocer declared to the newspaper Reforma: "They stopped the reform because the high ranking members of the Military and the Presidency did not like it at the end. We could see a broad agreement within the Commission, but by the time to introduce the human rights and judges' issues, they did not like it and it did not proceed. It is not going to pass in this legislature [...] It was actually, Manlio (Fabio Beltrones) and (José) González Morfín who stopped it". Reforma, "Frenan reforma a fuero militar", 27 April de 2012.

### **3. AN EMBLEMATIC CASE OF THE PERSISTENCE OF TORTURE: THE EXTRAJUDICIAL EXECUTION, TORTURE AND CRUEL, INHUMANE, OR DEGRADING TREATMENT COMMITTED AGAINST THE STUDENTS OF THE RURAL NORMAL TEACHING SCHOOL “RAÚL ISIDRO BURGOS” OF AYOTZINAPA, GUERRERO, ON DECEMBER 12, 2012 BY FEDERAL AND STATE SECURITY FORCES**

Three years after the Committee against Torture included in its list of previous questions to the presentation of the report reviewing the Mexican State, two requests of information<sup>20</sup> in regard to the responsibility of the State to investigate all alleged violations of human rights committed by public authorities, especially those committed during police operations; it continues to be incidents which demonstrate that in Mexico torture is not investigated effectively.

**Facts.** On December 12, 2011, in the city of Chilpancingo, Guerrero, police repressed a social protest of approximately 300 students, between the ages of 18 and 21, from the Rural Normal College School “Raúl Isidro Burgos” based in Ayotzinapa, Guerrero, who were soliciting an audience with the Governor of Guerrero.

In the event, three persons lost their lives: two students who were shot to death by security forces, and an employee of a gasoline station, as a result of burns suffered as he tried to extinguish a fire in a combustible tank. Likewise, officers of various police bodies arbitrarily detained 42 persons, 24 of which were beaten with sticks and their weapons. This group included four minors and one woman. Additionally, it has been confirmed that one 19 years-old student was victim of torture and accused falsely of having fired a high calibre weapon (AK-47).

According to information of the National Commission on Human Rights (CNDH), among those who participated were 239 elements assigned to the Federal Ministry of Public Security, the Guerrero state Ministry of Public Security and Civilian Protection, and the Guerrero state Attorney-General’s Office. Out of these, 91 authorities carried firearms, while it was proven that the protesters did not carry any firearms.

After investigating the incident, on 28 March 2012, the CNDH issued Recommendation 1 VG/2012.<sup>21</sup> The CNDH signalled in its recommendation that given the evidence obtained, it was clear that the security forces that participated in the operations used excessive force and firearms with the objective of repressing the protest; and that there was no evidence of any due coordination, nor of the use of protocols or guidelines in response to riots, to prevent the physical harm of persons who are protesting or to third parties.

In regards to the manner in which persons were detained, from the analysis of various videos and photographs, as well as from medical certifications, interviews, and other activities, the CNDH observed that the Federal Police, the Guerrero state Ministerial Police and Preventative Police, respectively, all carried out cruel and indignant treatment to the victims.

Specifically, in regards to the torture, among the detained students was the case of Gerardo Torres Pérez, of 19 years of age, student of the Rural Normal College School “Raúl Isidro Burgos” who was falsely accused of firing a high calibre firearm, an AK-47, with the objective of fabricate evidence. In effect, the

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<sup>20</sup> In its earlier conclusions and recommendations, the Committee referred to the State’s duty to investigate all allegations of human rights violations by public officials, particularly those concerning violations committed in the course of police operations. Please provide information on the enquiries conducted into all allegations of human rights violations by public officials and into reports of excessive use of force by law enforcement personnel in the course of criminal investigations. How many people have been prosecuted and how many sentences have been handed down? Please also give the ranks of those found guilty and information on the enforcement of their sentences. [...] Please describe the steps taken to act upon the Committee’s recommendation regarding the State’s obligation to investigate allegations of arbitrary detention and to punish anyone found to have committed such an offence. Kindly furnish detailed, up-to-date information indicating how many public officials have been brought before the courts for having committed such offences as abuse of authority, abuse of public office, abuse of official functions or any other such instance of abuse during the review period. Please specify, in detail, the penalties that have been imposed for these types of offences. Is consideration being given to defining arbitrary detention as an offence under the Criminal Code? UN. Doc. CAT/C/MEX/Q/6. Pa.21 and 22.

<sup>21</sup> It is the first Recommendations of this kind issued by the CNDH, using its new constitutional faculty derived from the reform of June 2011 to Article 102-B of the Constitution, granting it to conduct special investigations on gross violations of human rights, thus this is a historic event. The recommendations No. 1/VG/2012, on the investigation of the events of 12 December 2011, in Chilpancingo Guerrero is available at: <http://www.cndh.org.mx/node/694>

student was beaten violently on various parts of his body, as he lay on the ground, by an undetermined number of Ministerial Police of the Guerrero state Attorney General's Office, whose faces were covered. This occurred inside the facilities of said Office; then, he was taken clandestinely to an isolated area where he was again beaten and coerced, by means of threats, to fire a weapon to incriminate him. Nevertheless, after the public and legal denouncement carried out by Tlachinollan, the student was released.

Subsequently, in the aforementioned Recommendation, the CNDH concluded that, based on the evaluations carried out on the victim, he presented positive signs and symptoms of torture, laying responsibility for the human rights violation on the ministerial police assigned to the Guerrero state Attorney General's Office that had the student in their custody. Nonetheless, to date, no authority has been sanctioned for these acts. The investigations for the crime of torture were never initiated, as torture is not codified in the state Criminal Code, and the CNDH determinations were not considered sufficient evidence; the Istanbul Protocol was not applied; and additionally, the lack of due diligence from the public prosecutor and the lack of ordering security measures, permitted the victim to receive threats and pressure to withdraw the charges.

The torture inflicted in the Ayotzinapa case is emblematic of the persistence of this practice in the state of Guerrero on various levels: it evidences that torture is still employed to obtain illegitimate confessions in high-impact cases; it demonstrates the participation of the public prosecutor and the police responsible for investigating the crimes in this practice; it illustrates the way in which in states such as Guerrero, investigations for torture are not even initiated; it underlines the lack of proof value of the activities of the Ombudsman system; and it demonstrates the persistent risks for those who denounce torture.

## **5. Conclusions and Recommendations requested to the Committee**

Given the information presented, we consider necessary to request of this Honourable Committee to include in its final recommendations:

- Request the Mexican State to present detailed and disaggregated information about the situation of torture in the federative entities (states) and especially in those with a historic context of gross violations of human rights, such as Guerrero.
- Reiterate that the discrepancy between the recurring practice of torture and the absence of criminal procedures, which aim sanctions of those responsible, is evidence of the need to strengthen the legal framework to prevent and eradicate torture in Guerrero.
- Convey that, because torture is legislated as a crime in the normative statute that creates a public autonomous organism of protection for human rights in the state of Guerrero, and not in the state Criminal Code, a unique situation in the country, this contributes to cases of torture not being investigated and sanctioned adequately. In addition, reiterate the explicit request for torture to be codified in the Criminal Code in conformity with international standards.
- Highlight, if considered appropriate, that the proposal by the Human Rights Centre "Tlachinollan" is adequate to initiate the reform of the Criminal Code to codify the crime of torture.
- Reiterate the concern for the continued expanded role of military jurisdiction in cases of human rights violations committed against civilians by members of the Military Forces, including the necessity to reform the Code of Military Justice to bring it into compliance with international standards on the subject-matter.
- Express concern about the lack of application of the Istanbul Protocol in investigations conducted in civil jurisdiction and request detailed information about the number of convictions by federative entities (states) of public servants responsible for committing acts of torture.

- Express concern about the use of torture against youth and students of the Rural Normal College School Raúl Isidro Burgos of Ayotzinapa, Guerrero and request detailed information about the investigations initiated for torture in this case.

**For more information:**  
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